

U.S. Patent Application No. 10/043,153
Docket No. 10546/6

REMARKS

Claims 1-33 and 37 are pending in this application upon entry of the present amendment, claims 15, 21, 22, and 37 having been amended by way of the present amendment.

Allowable Subject Matter

Claims 2-8 and 25-33 were allowed.

Claims 13, 14, and 16 were objected to as depending from a rejected base claim, but indicated as allowable if rewritten in independent form.

Claim Objections

Claims 15 and 37 were objected to as having informalities requiring correction. The objected-to claim language has been amended. Withdrawal of the objections is therefore respectfully requested.

Double Patenting Rejections

Claims 17-20 were rejected under the judicially created doctrine of double patenting over claims 1-4, 6, 12, and 19-21 of U.S. Patent No. 6,612,971 ("the '971 patent"). Claims 23 and 24 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7-18 of the '971 patent.

Since the claims of this application are still being prosecuted, Applicant will attend to the double patenting issue at such time as the claims are allowed.

102 Rejections

Cheng

Claims 1 and 11 were rejected as being anticipated by Cheng (U.S. Patent No. 6,338,355). Applicant traverses the rejections.

Claim 1 recites a pulling member of an exercise machine that "includes a cable that pulls both forward toward [a user of the exercise machine] and rearward from [a] braking member [of the exercise machine] in order to disengage [the] braking member."

In contrast, Cheng describes a braking system of a rollator in which the user depresses grips 21, which causes releasing wires 22 to transmit a *downward* force to an arm rest 14. The downward force causes transmission rods 23 to be displaced *upward*, causing serrated edges 27

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of follower blocks 26 to separate from the teeth 31 of ratchet wheels 30, thereby releasing the castors' brake and allowing the user to move the rollator. See, e.g., Cheng, col. 2, line 63 – col. 3, line 4; Fig. 3.

Cheng neither teaches nor suggests using a pulling member with a cable that pulls both *forward* toward the user and *rearward* from the braking member, as in claim 1. Rather, Cheng clearly discloses that the braking system on the rollator operates in *downward* and *upward* movements, as pointed out above. Moreover, even if the braking system of Cheng did move toward the user, it would have to move in a *rearward* direction, because the user stands at the rear of the rollator, not at the front. In contrast, in the exercise machine of the present invention, the cable moves *forward* toward the user.

In order for Cheng to anticipate claim 1, Cheng must teach or suggest each and every element of the claim. Since Cheng neither teaches nor suggest the forward and rearward movements of the pulling member's cable of claim 1, claim 1 is not anticipated by Cheng. Withdrawal of the rejection is therefore requested.

Claim 11 recites a pulling member of an exercise machine that “includes a harness assembly.”

In contrast, Cheng neither teaches nor suggests its rollator having a harness assembly. Therefore, claim 11 is not anticipated by Cheng. Withdrawal of the rejection is therefore requested.

Eschenbach

Claims 17, 23, and 24 were rejected as anticipated by Eschenbach (U.S. Patent No. 5,529,554). Applicant traverses the rejections.

Claim 17 recites a variably adjusting member of the exercise machine that “variably adjusts [the] resistance of [a] resisting member [of the exercise machine] by horizontally moving [the] resisting member relative to [the] variably adjusting member.”

In contrast, Eschenbach describes a *concentric* closing of brake band 108 around a brake drum 110 as a knob 120 rotates clockwise. See, e.g., Eschenbach, col. 5, lines 9-20; Fig. 1. Unlike the resisting member of claim 17, which moves *horizontally* as the variable adjusting member adjusts the resistance, the brake band 108 of Eschenbach moves in a *concentric*, i.e., circular, movement to encircle the brake drum 110 as the knob 102 rotates.

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Since the horizontal movement of the resisting member of claim 17 is neither taught nor suggested by Eschenbach, claim 17 and dependent claims 23 and 24 are not anticipated by Eschenbach. Withdrawal of the rejections is therefore requested.

Chang

Claims 21 and 22 were rejected as anticipated by Chang (U.S. Patent No. 5,108,091). Applicant traverses the rejections.

Claim 21 has been amended to replace "housing member" with "connecting member" to further clarify the claimed invention. Claim 21 as amended includes a connecting member to connect a resisting member and a variably adjusting member, where the connecting member is movably positionable above the rigid member. For example, as shown in Fig. 7, element 940 connects element 906 with element 904, where element 940 is movably positionable above element 902 (see Fig. 6).

In contrast, Chang neither teaches nor suggests the connecting member. Rather, Chang discloses an adjusting block 47 that, by moving vertically, pushes a U-shaped sleeve 49 rightward to tighten a braking belt 48. However, the adjusting block 47 is not connected to the sleeve 49. Nor is the adjusting block 47 connected to a resisting member, as recited in claim 21.

Since the connecting member of claim 21 is absent from Chang, claim 21 is not anticipated by Chang. Withdrawal of the rejection is therefore requested.

Claim 22 as amended includes the connecting member. Therefore, for the reasons stated above regarding claim 21, claim 22 is also not anticipated by Chang. Withdrawal of the rejection is therefore requested.

103 Rejections

Cheng in view of Bermel

Claims 9, 10, 12, 15, and 16 were rejected as unpatentable over Cheng in view of Bermel (U.S. Patent No. 6,488,130). Applicant traverses the rejections.

As stated previously, Cheng neither teaches nor suggests the pulling member's cable of claim 1 that pulls both forward toward a user and rearward from a rigid member in order to disengage a braking member.

The deficiencies of Cheng are not corrected by Bermel because Bermel also fails to teach

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or suggest the forward and rearward movements of the pulling member's cable of claim 1. Instead, Bermel discloses a twist-grip brake of a cargo portage device in which a user twists a twist grip mechanism 10 that causes a cable 18 to move only *rearward* from a brake band 70 around a wheel 16 in order to disengage the brake. See, e.g., Bermel, Abstract; Figs. 1 and 5. Moreover, because the user stands at the rear of the portage device, the cable 18 moves in a *rearward* direction toward the user. In contrast, in the exercise machine of the present invention, the cable moves *forward* toward the user.

In order to establish *prima facie* obviousness, the references must teach or suggest all the claim limitations. Since neither Cheng nor Bermel teaches or suggests the pulling member's cable's forward and rearward movements of claim 1, *prima facie* obviousness has not been established. Hence, claims 9 and 10, which depend from claim 1, are patentable over Cheng in view of Bermel. Withdrawal of the rejections is therefore requested.

Claim 12 includes, in addition to a braking member and a pulling member for disengaging the braking member, a resisting member and a variably adjusting member for variably adjusting the resistance of the resisting member.

In contrast, neither Cheng nor Bermel teaches or suggests a resisting member and a variably adjusting member. Instead, Cheng only discloses a braking system for a rollator and Bermel only discloses a braking system for a cargo portage device.

To establish *prima facie* obviousness, in addition to the teaching or suggestion of all the claim limitations, there must be some motivation to modify the references to provide the claimed invention. There is no motivation to modify Cheng or Bermel to include a resisting member and a variably adjusting member. Such a modification would be contrary to the purposes of the rollator of Cheng, i.e., to assist an incapacitated person in walking, and the cargo portage device of Bermel, to easily and efficiently transport heavy cargo. There is no motivation to make it more difficult to move the rollator of Cheng or the portage device of Bermel by modifying them to add variable resistance.

Since neither Cheng nor Bermel teaches or suggests the resisting member and variably adjusting member of claim 12 and there is no motivation to do so, *prima facie* obviousness has not been established. Hence, claims 12 and dependent claims 15 and 16 are patentable over Cheng in view of Bermel. Withdrawal of the rejections is therefore requested.

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Olschansky

Claim 22 was rejected as unpatentable over Olschansky (U.S. Patent No. 5,284,462).

Applicant traverses the rejection.

Applicant points out that claim 22 prior to the present amendment did not include a housing member as stated in the rejection. However, upon amendment to include a connecting member (i.e., a housing member), Applicant will address the stated rejection.

Claim 22 as amended includes a connecting member to connect a resisting member and a variably adjusting member, where the connecting member is movably positionable above the rigid member.

In contrast, Olschansky neither teaches nor suggests the connecting member of claim 22. Rather, Olschansky discloses a housing 18 which is fixed and encloses the mechanical parts of an exercising apparatus. See, e.g., Olschansky, col. 3, lines 5-13; Fig. 1. The housing 18 does not connect a resisting member to a variably adjusting member. Nor is the housing movably positionable.

Since the connecting member of claim 22 is neither taught nor suggested by Olschansky, *prima facie* obviousness has not been established. Therefore, claim 22 is patentably over Olschansky. Withdrawal of the rejection is therefore requested.

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CONCLUSION

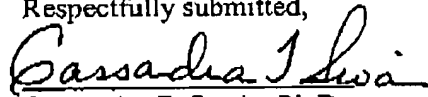
Claims 1-33 and 37 are patentable.

The Examiner is invited to call the undersigned at (202) 220-4200 to discuss any information concerning this application.

The Office is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 11-0600.

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Respectfully submitted,



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